Federal Courts to Initiate Code For Rules of Evidence on July 1

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WASHINGTON, Jan. 26—For the first time in the nation's history, lawyers trying cases in Federal Court will be operating under uniform rules of evidence in every jurisdiction in the country, beginning July 1.

The process of substituting a simplified national code for a confused patchwork of state law and varying court-made rules took more than 14 years. A major confrontation between Congress and the Supreme Court resulted.

A compromise draft of the code was pushed through Congress in the closing days of the 1974 session, after nearly two years of deliberation. President Ford signed the legislation without comment early this month.

While enactment of the rules failed to attract much public attention, it was a source of considerable satisfaction to Representative William L. Hungate, chairman of the House Criminal Justice subcommittee, chief sponsor of the legislation.

Mr. Hungate predicted that the code would "certainly improve the administration of justice" and "help to insure the highest standards of fairness in our courts."

Generally, despite the large umber of lawyer-members and heir reluctance to revise long-tanding practices, Congress managed to reach agreement on the rules by dropping some of the most controversial material in the version promulgated by the Supreme Court late in 1972.

More Secrecy

That draft, which would have become law automatically if Congress had not stepped in, would have given government officials the privilege of refusing to testify in court if a "secret of state" or "official information," a lesser category, were involved.

That language was stricken from the rules after protests that it would encourage still more secrecy in government.

The Supreme Court's version would also have made privileged, or unavailable as court evidence, confidential conversations between lawyer and client and clergyman and parishioner, but not between doctor and patient.

Congress resolved the debate that resulted by avoiding the issue entirely. The new rules provide that whatever case-law or state statutes control such privileges in Federal Court now will continue to apply in the future.

The legislation goes so far as to prohibit the Supreme Court from issuing any more rules on evidentiary privileges, a power the Justices currently enjoy. Representative Hungate said this had seemed desirable "because of the sensitivity and impact" of the subject.

State Laws Apply

This stance enabled Congress to avoid the controversial question of a possible Federal shield law authorizing newsmen to refuse to reveal their sources in courtroom testimony. This leaves state shield laws, where they exist, in effect in Federal Court cases.

A particularly significant section of the new rules attempts to codify the law on admission of hearsay, or second-hand, evidence. It states 23 exceptions to the basic rule that such testimony is unacceptable, plus an all-purpose provision likely to require considerable judicial interpretation.

Another major revision limits the extent to which the credibility of a witness can be undermined by introducing evidence of his past criminal record, particularly where the offenses were relatively minor or took place long before.

Congress Stepped In

The process that produced the new rules began in 1961 when the Judicial Conference of the United States, which administers the Federal Court system, established a committee to study the advisability of such a project. An advisory committee set up by the conference in 1963 produced a preliminary draft in 1969.

The rules were revised and submitted to the Supreme Court in 1970. The Justices, however, called for further study, and a third draft was finally submitted to the Court in 1971. A year later, with Associate Justice William O. Douglas dissenting, the court promulgated the code.

Under Federal law, these rules would have gone into effect automatically on July 1, 1973, if Congress did not act within 90 days. Alarmed that the courts were legislating in substantive areas and not merely recasting procedure, Congress postponed the effective date and launched the two-year redrafting project that produced the new law.